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Paper No. 14

Tony E. Piotrowski  
Philips Intellectual Property & Standards  
P.O. Box 3001  
Briarcliff Manor, NY 10510

In re Application of: Meli )  
Application No.: 09/313037 ) **DECISION GRANTING PETITION**  
Filed: May 19, 1999 ) **TO ACCEPT CORRESPONDENCE AS**  
Attorney Docket No.: PHN 17,438 ) **TIMELY FILED UNDER 37 CFR §1.8**  
For: DATA PROCESSING DEVICE )  
WITH ALIASED DATA POINTER )  
REGISTER )


This decision is in response to the request for withdrawal of holding of abandonment of this application filed on September 8, 2003. The request is being considered a petition to accept papers as timely filed under 37 CFR §1.8. This application was abandoned for failure to timely file a proper reply to the Notice of Appeal.

In support of the petition, petitioner has provided a copy of the "Auto-Reply" return receipt confirmation for facsimile transmission with a date of March 28, 2003 listing a request to enter the previous amendment submitted February 10, 2003 (certificate of mailing of February 3, 2003), a RCE request and authorization to charge Deposit Account No. 14-1270, and (2) a copy of the Request for Continued Examination.

The Auto-Reply copy serves as *prima facie* evidence of receipt in the USPTO of the RCE. Therefore, the evidence establishes that a timely response was, in fact, filed on March 28, 2003. The abandonment was the result of the Office failing to timely match the response to the application file.

The petition is **GRANTED**. The application was not abandoned, in fact. The Office regrets any inconvenience caused by this error.

The application file is being forwarded to the Technology Center support staff for processing of the RCE and amendment. Thereafter, the file will be forwarded to the examiner for consideration of applicant's response.

  
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Josie A. Ballato

Special Programs Examiner  
Technology Center 2100  
Computer Architecture, Software, and Information Security  
(703) 308-0269